

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KIRK OCHOA,

Plaintiff,

vs

9:06-CV-119

CAROL DeSIMONE Inmate Records Coordinator;
D.S.A. BADGER; and LT. SANTOS,

Defendants.

APPEARANCES:

OF COUNSEL:

KIRK OCHOA
Plaintiff, Pro se
c/o Jennifer Godfrey
3337 Mickle Ave.
Bronx, NY 10469

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
Suite 102
615 Erie Boulevard West
Syracuse, NY 13204-2455

SENTA B. SIUDA, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Kirk Ochoa, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated September 10, 2008, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended that the defendants' motion for summary judgment (Dkt. No. 32) be granted; that plaintiff's retaliation claim be dismissed pursuant to

28 U.S.C. § 1915(e)(2)(B)(ii); and that the plaintiff's complaint be dismissed. Objections to the Report-Recommendation have not been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Treece, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

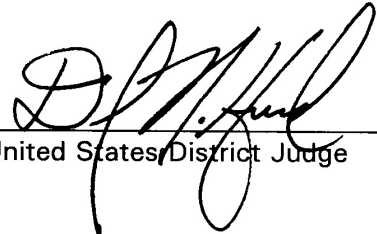
ORDERED that

1. Defendants' motion for summary judgment (Docket No. 32) is GRANTED;
2. Plaintiff's retaliation claim is DISMISSED; and
3. Plaintiff's complaint is DISMISSED.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: September 30, 2008
Utica, New York.


United States District Judge